

CASS COUNTY JOINT WATER RESOURCE DISTRICT  
CASS COUNTY HIGHWAY DEPARTMENT  
WEST FARGO, NORTH DAKOTA  
APRIL 14, 2016  
8:00 A.M.

The Cass County Joint Water Resource District met on April 14, 2016, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Mark Brodshaug and Dan Jacobson, Southeast Cass Water Resource District; Rodger Olson, Maple River Water Resource District (by phone); Ken Loughed, North Cass Water Resource District; Jacob Gust, Rush River Water Resource District; Carol Harbeke Lewis, Secretary-Treasurer; Michelle Anderson, Administrative Assistant; Sean M. Fredricks, Chris McShane and Lukas Andrud; Attorneys for the Board; Lyndon Pease, Engineer for the Board; Martin Nicholson, John Albrecht and Ty Smith; CH2M HILL Engineers, Inc.; Eric Dodds, Tanaya Reitz and Paul Breen, Advanced Engineering and Environmental Services, Inc. (AE2S); Pat Downs, Moore Engineering, Inc.; Keith Berndt, Cass County Administrator; Stan Wolf, Cass County Weed Control, Nathan Boerboom, Division Engineer – Storm Sewer Utilities City of Fargo; Jim Nyhof, Mayor of Oxbow; and Scott Stenger, ProSource Technologies, Inc.

**Minutes**

It was moved by Manager Jacobson, seconded by Manager Gust and unanimously carried to approve the minutes of the March 16, 24, 30 and 31 (two sets), 2016, meetings.

**Agenda**

It was moved by Manager Gust, seconded by Manager Loughed and unanimously carried to approve the order of the agenda, as amended.

**Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project – project updates**

Jim Nyhof met with the Board to discuss funding to bring valuations of all properties in the City of Oxbow up-to-date. The Board expressed that part of the problem existed prior to the Oxbow-Hickson-Bakke Ring Levee Project, but also acknowledged the changes due to the addition of new properties in the city as a result of the project. It was moved by Manager Jacobson and seconded by Manager Loughed to approve 50% cost-share, not to exceed \$10,000, to hire a firm to assist with updating valuations of all properties in the City of Oxbow. Upon roll vote, the motion carried unanimously. Keith Berndt indicated Cass County would provide the remaining cost-share for the work.

Mayor Nyhof also requested cost-share to hire professional assistance with the increased paperwork and updating records for the City of Oxbow. It was moved by Manager Loughed and seconded by Manager Gust to approve 50% cost-share, not to exceed \$16,500, to hire Moore Engineering, Inc. to handle paperwork and bring City of Oxbow records up-to-date. Upon roll call vote, the motion carried unanimously.

Mayor Nyhof expressed his gratitude to the Board for their support of the City of Oxbow in regard to the Oxbow-Hickson-Bakke Ring Levee Project.

**Metro Flood Diversion Project – access update**

Chris McShane and Lyndon Pease updated the Board on access issues. *Right of Entry Agreements* are needed on approximately 30 properties at the north end of the diversion channel and on approximately 14 properties for the diversion channel alignment along I-29. Mr. McShane stated follow-up letters will be sent to property owners on the north end of the diversion channel.

Mr. McShane updated the Board on the appeal filed by Jonathon Garaas. The North Dakota Supreme Court will hear the oral argument related to the case on April 19, 2016.

**Metro Flood Diversion Project - appraisal review/approval**

It was moved by Manager Loughheed and seconded by Manager Olson to approve the appraisal of OIN #9054, #9055, and #9056, with an effective date of February 5, 2016, as just compensation for acquisition of property regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project – relocation benefits**

It was moved by Manager Gust and seconded by Manager Jacobson to approve the Relocation Payment for OIN #1802, as outlined in the letter dated April 11, 2016, regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Chris McShane presented and reviewed the *Policy and Procedure for Appeal of Relocation Assistance Decision*. It was moved by Manager Gust and seconded by Manager Loughheed to approve the *Policy and Procedure for Appeal of Relocation Assistance Decision* regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

**Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project – land acquisition**

It was moved by Manager Jacobson and seconded by Manager Gust to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* and the *Replacement Housing Agreement* and to approve the replacement lot cost reimbursement for OIN #9602 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Olson to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* and the *Replacement Housing Agreement* and to approve the replacement lot cost reimbursement for OIN #9502 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* and the *Replacement Housing Agreement* and to approve the replacement lot cost reimbursement for OIN #9605 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Loughheed to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* and the *Replacement Housing Agreement* and to approve the replacement lot cost reimbursement for OIN #9655 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Olson to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* and *Replacement Housing Agreement* and to approve the replacement lot cost reimbursement for OIN #9593 and #9594 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Loughheed and seconded by Manager Gust to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* and *Replacement Housing Agreement* and to approve the replacement lot cost reimbursement for OIN #9507 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for OIN #9601 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Olson and seconded by Manager Gust to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for OIN #9503 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Gust and seconded by Manager Jacobson to approve and authorize Chairman Brodshaug to sign the *Purchase Agreement* for OIN #9509 regarding the Oxbow-Hickson-Bakke Ring Levee Project. Upon roll call vote, the motion carried unanimously.

Tanaya Reitz presented and reviewed the *Land Management Summary*. Two closings occurred for the In Town Levees Project. Fifteen homes are currently under construction in Oxbow. Nine homes have been completed and the owners have relocated. All the diversion inlet appraisals have been reviewed by the Corps of Engineers. Pre-property acquisition efforts have begun and boundary survey work will begin shortly for the diversion inlet properties.

Chris McShane updated the Board on responses being prepared to send to Jonathon Garaas and the State Water Commission regarding the Metro Flood Diversion Project. Discussion was held on the authority given to water resource districts by state statute and the recent media publications on the updated project cost estimate.

Nathan Boerboom, a member of the Technical Advisory Group (TAG), expressed his concerns to the Board and stated TAG was not comfortable offering CCJWRD a recommendation to approve the land acquisition Task Order brought by consultants until a more extensive review could be done. Mr. Boerboom stated TAG received the Task Orders from consultants only late last week, which did not allow for an adequate, thorough review of the scope of services or the work completed to date.

Discussion was held on the scope of services, budget and payments requested by consultants in the current land management Task Order. Eric Dodds explained services include the ESRI Work Flow Manager and Map Services tool and training to land firms. Mr. Dodds stated AE2S will begin meets and bound surveys and have enough in the budget to begin cadastral surveys. A Task Order for the cadastral surveys will be brought to a future meeting. Mr. Dodds stated AE2S is equipped to do the cadastral surveys for the entire diversion channel for the P3 contractor due to digital data accessed from previous surveys done for the Fargo-Moorhead Metropolitan Council of Governments (METRO COG). The Board agreed to approve the current Task Order, which would allow a more thorough review to be conducted by TAG over the next couple of months.

It was moved by Manager Jacobson and seconded by Manager Gust to approve and authorize Chairman Brodshaug to sign Task Order No. 1, Amendment 7, for CH2M HILL Engineers, Inc. to extend the time for rendering services to May 27, 2016, and to increase the budget \$340,000, for a total of \$3,429,822, for land acquisition management services regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

#### **Metro Flood Diversion Project – project updates**

Mr. Boerboom expressed the same concerns to the Board regarding the Task Order for construction management and oversight services. Mr. Boerboom stated while he understands the additional scope of work provided in the Task Order for the project, TAG is not comfortable offering a recommendation to approve the Task Order until a more thorough review can be conducted.

Consultants explained the scope of services included in the current Task Order to the Board. Discussion was held on current and future expectations of the scope of construction management services. Consultants stated they have an obligation to provide the same level of service previously performed to-date. For future construction management Task Orders, it was suggested consultants separate the scope of services and direct the Task Order to the specific project sponsors. In order to prevent delay, the Board agreed to approve the current Task Order, which would allow a more thorough review to be conducted by TAG over the next couple of months. The Board thanked Mr. Boerboom for his quick review of the Task Orders and for his recommendations.

It was moved by Manager Gust and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign Task Order No. 2, Amendment 4, for CH2M HILL Engineers, Inc. to extend the time for rendering services to May 27, 2016, and to increase the budget \$500,000, for a total of \$2,995,000, for construction management (pre-diversion channel) services regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

Sean Fredricks stated the North Dakota Supreme Court will hear the oral argument on the appeal filed by Jonathan Garaas on May 17, 2016.

An updated financial plan is being developed for the Metro Flood Diversion Project.

The Diversion Authority hopes to sign the *Project Partnership Agreement* (PPA) with the Corps of Engineers in July 2016.

#### **Metro Flood Diversion Project – Joint Powers Agreement**

Sean Fredricks provided the Board with a summary of the current draft *Joint Powers Agreement*. Discussion was held on the long-term ownership and maintenance of the Metro Flood Diversion Project, certification and contract obligations of the P3 developer.

#### **Metro Flood Diversion Project / Oxbow-Hickson-Bakke Ring Levee Project / In Town Levees Project – property management / land rental agreements**

Paul Breen updated the Board on property management and demolition activities for the In Town Levees Project. Several requests have been made to rent Oxbow homes acquired for the project. Mr. Breen met with Mayor Nyhof to discuss maintenance for the Oxbow-Hickson-Bakke Ring Levee Project. The Diversion Authority will review a list of properties to determine whether they should remain on the tax rolls.

It was moved by Manager Gust and seconded by Manager Lougheed to approve and authorize Chairman Brodshaug to sign the *2016-2018 Land Rental Agreement* with Thomas Livdahl. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Jacobson and seconded by Manager Gust to approve the *CCJWRD Home Rental Policy* regarding the Metro Flood Diversion Project. Upon roll call vote, the motion carried unanimously.

#### **Maple River Dam – operation and maintenance / weed, cattail, tree and brush control**

It was moved by Manager Gust and seconded by Manager Lougheed to approve the *Cass County Weed Control Work Order* form for spraying Cass County Joint Water Resource District facilities. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Lougheed and seconded by Manager Gust to hire Dakota Helicopters, Inc. to provide aerial and ground spraying services for weed, cattail, tree and brush control at the Maple River Dam for 2016. Upon roll call vote, the motion carried unanimously.

**Swan Creek, Upper Maple River and Rush River Watershed Planning Teams**

Pat Downs updated the Board on the Swan Creek, Upper Maple River and Rush River Watershed Planning Team meetings. Mr. Downs stated the Swan Creek Watershed Planning Team refined the *Purpose and Need Statement* to resubmit to the National Resources Conservation Service Regional Conservation Partnership Program and reviewed alternatives to find potential solutions. The Planning Teams will meet in July to review watershed study information.

**Bills**

It was moved by Manager Gust and seconded by Manager Lougheed to approve the payment of Checks #12630 through #12652, and the electronic funds transfers, as presented. Upon roll call vote, the following Managers voted in favor: Brodshaug, Olson, Jacobson, Lougheed and Gust. The Chairman declared the motion passed.

**Reimbursement request #26 from the Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020**

It was moved by Manager Jacobson and seconded by Manager Lougheed to approve and authorize the Secretary-Treasurer to sign reimbursement request #26 from the Diversion Authority from funds administered by the State Water Commission, pursuant to SB 2020. Upon roll call vote, the motion carried unanimously.

**Adjournment**

There being no further business for the Board to consider, it was moved by Manager Lougheed, seconded by Manager Jacobson and unanimously carried to adjourn the meeting.

APPROVED:

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Mark Brodshaug  
Chairman

ATTEST:

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Carol Harbeke Lewis  
Secretary-Treasurer